

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RYAN OUSDALE,

Plaintiff

V.

TARGET CORPORATION,

Defendant

Case No.: 2:17-cv-02749-APG-NJK

Order Granting in Part Motion for Reconsideration

[ECF No. 73]

Defendant Target Corporation moves for reconsideration of my order granting spoliation sanctions in the form of an adverse inference instruction against Target. Target failed to respond to plaintiff Ryan Ousdale's motion for sanctions. Target contends that it did not believe it had to respond until after I decided whether to grant Ousdale's motion to seal the sanctions motion.

Target's position that it need not respond to a motion until the court rules on a related motion to seal has no foundation in either the Federal Rules of Civil Procedure or the Local Rules. Nevertheless, there is a strong policy in favor of resolving cases on the merits, rather than on procedural missteps. *See Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986) (noting the "strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits"). Consequently, I grant Target leave to file an opposition to the motion to sanctions. However, I deny Target's request that I vacate my prior decision at this time. I will revisit my prior order once briefing is complete.

IT IS THEREFORE ORDERED that defendant Target Corporation's motion for reconsideration (**ECF No. 73**) is **GRANTED in part**.

IT IS FURTHER ORDERED that Target Corporation may file an opposition to plaintiff Ryan Ousdale's motion for sanctions on or before September 6, 2019.

1 IT IS FURTHER ORDERED that plaintiff Ryan Ousdale may file a reply on or before
2 September 13, 2019.

3 DATED this 26th day of August, 2019.

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6 ANDREW P. GORDON
7 UNITED STATES DISTRICT JUDGE
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